

ATTACHMENT FOR TELEPHONE NUMBER (TN) REPORT

Optional Attachment to Appendix xDSL/HFPL

1. INTRODUCTION

- 1.1 This Attachment to Appendix: xDSL/HFPL of this Agreement sets forth the rates, terms and conditions for the Telephone Number Report ("TN Report") for CLEC's utilizing xDSL Capable Loops and the High Frequency Portion of the Loop ("HFPL").
- 1.2 Except as otherwise provided herein, the rates, terms and conditions set forth elsewhere in this Agreement pertaining to xDSL capable loops and the HFPL shall remain unchanged and in full force and effect.
- 1.3 **SBC Communications Inc. (SBC)** means the holding company which directly or indirectly owns the following ILECs: Illinois Bell Telephone Company d/b/a SBC Illinois, Indiana Bell Telephone Company Incorporated d/b/a SBC Indiana, Michigan Bell Telephone Company d/b/a SBC Michigan, Nevada Bell Telephone Company d/b/a SBC Nevada, The Ohio Bell Telephone Company d/b/a SBC Ohio, Pacific Bell Telephone Company d/b/a SBC California, The Southern New England Telephone Company, Southwestern Bell Telephone, L.P. d/b/a SBC Arkansas, SBC Kansas, SBC Missouri, SBC Oklahoma and/or SBC Texas and/or Wisconsin Bell, Inc. d/b/a SBC Wisconsin.
- 1.4 **SBC-12STATE** - As used herein, **SBC-12STATE** means the applicable SBC-owned ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.

2. DEFINITIONS

- 2.1 The term "commercial volumes" shall be defined to mean any combination of 100 orders for xDSL capable loops or the HFPL provisioned by **SBC-12STATE** to CLEC in any given month per region (with the four (4) specific regions being **SBC-12STATE's** incumbent local exchange area(s) in the following states: (1) California/Nevada; (2) Ohio, Wisconsin, Indiana, Illinois and Michigan; (3) Oklahoma, Missouri, Arkansas, Kansas and Texas; and (4) Connecticut (each respectively "Region").

3. TN REPORT OFFERING

- 3.1 For the purposes set forth in this Section 3 only, On the first business day following the 20th of each month (excluding holidays), **SBC-12STATE** will make available for download during off peak hours using Connect: Direct (NDM) over a CLEC-provided dedicated private line circuit from CLEC's premises into one of the **SBC-12STATE's** protected xRAFs (Remote Access Facilities), a report that will list all telephone numbers resident in **SBC-12STATE's** network per state (the TN Report). The provision of this TN Report is a voluntary offering by **SBC-12STATE**.
- 3.2 Subject to the conditions set forth in this Section 3, **SBC-12STATE** shall make the TN Report available to CLEC for the Term of this Attachment, as more specifically set forth in Section 8 below. CLEC has to have an **SBC-12STATE** xDSL/HFPL Appendix to the CLEC's Interconnection Agreement. In addition, this TN Report shall only be made available to CLEC for so long as CLEC actively ordering xDSL capable loops or the HFPL from **SBC-12STATE**, under the rates, terms and conditions set forth in the Interconnection Agreement.
- 3.3 The **SBC-12STATE** TN report outlined herein will include each telephone number, the partial address that corresponds to each telephone number (the address shall include at a minimum the street name) and will include a flag indicating whether the telephone number is an **SBC-12STATE** retail number, if applicable or whether the telephone number is a wholesale number (which would indicate another CLEC is the retail voice provider either by reselling **SBC-12STATE's** POTS service or by providing voice service via UNE-P/UNE switch port).

- 3.4 The purpose of the TN Report outlined herein is to enable a CLEC providing DSL service to determine whether it can order the HFPL, (which would be available when SBC-12STATE is the retail POTS provider) or a standalone xDSL-capable loop prior to the loop qualification stage. This TN Report shall only be made available to CLEC for so long as CLEC is ordering xDSL capable loops or the HFPL from SBC-12STATE, under the rates, terms and conditions set forth in this Interconnection Agreement.
- 3.5 In the event that the CLEC does not order commercial volumes of xDSL capable loops or the HFPL from SBC-12STATE during a calendar month in a specific Region, as that term is defined in Section 2.1, SBC-12STATE shall have no obligation to provide the TN Report, including any updates, for that Specific Region to CLEC the following calendar month. Additionally, SBC-12STATE may discontinue providing such Report, including any updates, to CLEC until CLEC begins ordering the HFPL or xDSL capable loops in commercial volumes in that Specific Region. In the event the TN Report is discontinued, CLEC will be able once again to access the TN Report for that Specific Region in the following calendar month.
- 3.6 This TN Report contains SBC-12STATE propriety information and shall only be made available to and used by a data CLEC for purposes of determining whether the CLEC can order the HFPL, or a standalone xDSL capable loop from SBC-12STATE under this Interconnection Agreement to serve its end-user customers and may not be used by CLEC for any other purpose. CLEC shall not disclose the TN Report, or any proprietary information contained on the TN Report, to any third party without SBC-12STATE's prior written approval.
- 3.7 CLEC's failure to abide by the provisions concerning restricted use of the TN Report or the proprietary data on such TN Report contained herein shall be grounds for SBC-12STATE to immediately discontinue providing the TN Report to CLEC, and in such case, SBC-12STATE shall have no further obligation to provide the TN Report to CLEC hereunder.

4. RESERVATION OF RIGHTS

- 4.1 The Parties acknowledge and agree that on May 24, 2002, the D.C. Circuit issued its decision in *United States Telecom Association, et. al v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) ("USTA decision"), in which the Court granted the petitions for review of the Federal Communications Commission's ("FCC") Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (FCC 99-238) ("the UNE Remand Order") and the FCC's Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (FCC 99-355) (rel. Dec. 9, 1999) ("the Line Sharing Order"), and vacated and remanded the UNE Remand and Line Sharing Orders in accordance with the decision. In addition, the FCC adopted its Triennial Review Order on February 20, 2003, on remand from the USTA decision and pursuant to the FCC's Notice of Proposed Rulemaking, *Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338 (FCC 01-361) (rel. Dec. 20, 2001). Further, the FCC has also issued the following orders: its Memorandum Opinion and Order, and Notice of Proposed Rulemaking, FCC 98-188 in CC Docket No. 98-147, 13 FCC Rcd 24011 (rel. August 7, 1998), its First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-48 in CC Docket 98-147, 14 FCC Rcd 4761 (rel. March 31, 1999), its I Order *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 1760 (FCC 99-370) (rel. Nov. 24, 1999), including its Supplemental Order Clarification, (FCC 00-183) (rel. June 2, 2000), in CC Docket 96-98, and its Third Report and Order on Reconsideration and Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and its Fourth Report and Order on Reconsideration and Sixth Further Notice of Proposed Rulemaking in CC Docket 96-98, 16 FCC Rcd 2101 (rel. Jan. 19, 2001) (collectively the "Orders"). In addition, on May 9, 2003, the Public Utilities Act of Illinois was amended to add Sections 13-408 and 13-409, 220 ILCS 5/13-408 and 13-409, and enacted into law ("Illinois Law"). The Illinois Law establishes a specific method for setting certain UNE rates in Illinois, mandates that the Illinois Commerce Commission ("ICC") apply the method and determine the rates ("ICC Rates"), and expressly deems all interconnection agreements to be amended to contain the ICC Rates immediately upon the ICC's announcement of such adjusted rates, without further action. By incorporating this Attachment into the Agreement which makes available the TN Report, and associated rates, terms and conditions, neither Party waives any of its rights with respect to the Orders, the Illinois Law or any other government action. The Parties further acknowledge

and agree that the rates, terms and conditions ("provisions") set forth herein are subject to any legal or equitable rights of review and remedies (including agency reconsideration and court review). If any reconsideration, agency order, appeal, court order or opinion, stay, injunction or other action by any state or federal regulatory or legislative body or court of competent jurisdiction stays, modifies, or otherwise affects any of the provisions set forth herein or elsewhere in this Agreement, specifically including but not limited to those arising with respect to the Orders, the affected provision(s) will be immediately invalidated, modified or stayed as required to effectuate the subject order upon the written request of either Party ("Written Notice"). In addition, to the extent this Agreement is in effect in Illinois, the Parties agree that any ICC orders implementing the Illinois Law, including, without limitation, the ICC Rates, shall automatically apply to this Agreement (for the state of Illinois only) as of the effective date of any such order(s) upon Written Notice, and as soon as practical thereafter, SBC Illinois shall begin billing CLEC the ICC Rates; provided, however, the Parties acknowledge and agree that no later than sixty (60) days from the Written Notice, the Parties will execute a conforming Amendment to this Agreement so that the Agreement accurately reflects the ICC Rates and SBC Illinois will issue any adjustments, as needed, to reflect that the ICC Rates became effective between the Parties as of the effective date of the applicable ICC order(s). With respect to all other Written Notices hereunder, the Parties shall have sixty (60) days from the Written Notice to attempt to negotiate and arrive at an agreement on the appropriate conforming modifications required to the Agreement. If the Parties are unable to agree upon the conforming modifications required within sixty (60) days from the Written Notice, any disputes between the Parties concerning the interpretations of the actions required or the provisions affected by such order shall be handled under the Dispute Resolution Procedures set forth in this Agreement.

6. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

- 6.1 The Parties acknowledge and agree that each term and condition ("Provision") in this Attachment is consideration for, a condition of and legitimately related to every other Provision in or referred to in this Attachment. The Parties further acknowledge and agree that they would not have agreed to any Provision in this Attachment but for their mutual agreement upon each and every Provision of this Attachment and therefore, agree that the Provisions set forth in this Attachment are non-severable. The Parties further acknowledge and agree that every interconnection, service and network element provided hereunder, shall be subject to all rates, terms and conditions contained in this Agreement which are legitimately related to such interconnection, service or network element, including but not limited to the xDSL rates, terms and conditions (and any HFPL rates, terms and conditions) in this Agreement. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each interconnection, service and network element provided hereunder: definitions, interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnification; remedies; intellectual property; publicity and use of trademarks or service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; no third party beneficiaries; disclaimer of agency; relationship of the Parties/independent contractor; subcontracting; assignment; responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; signaling; transmission of traffic to third parties; customer inquiries; expenses; conflicts of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

7. WAIVERS

- 7.1 Nothing in this Attachment or this Interconnection Agreement shall be interpreted to grant CLEC the right to audit SBC-12STATE's OSS or back-office systems. Upon the earlier of the Effective Date of this Attachment or the receipt by CLEC of a TN Report from SBC-12STATE as set forth in Section 3 above, CLEC agrees it shall not directly or indirectly request, nor participate in, publicly comment on and/or make any filings relating to an audit of any type, of SBC-12STATE's OSS or back office systems in any way

- related to line sharing/line splitting, the HPFL, xDSL capable loops, xDSL loop qualification information or data or with respect to any loop make-up information or data for a period which shall commence upon the Effective Date and which shall expire on the Termination Date set forth in Section 8, Term, below. This prohibition applies to all matters involving the subject-matters listed above, including, but not limited to Illinois Docket 00-0393; Illinois Bell Telephone Company Proposed Implementation of High Frequency Portion of the Loop/Line Sharing Service (Tariffs filed April 21, 2000) and any other docket involving the subject-matters specified in the first sentence of this Paragraph.
- 7.2 In the event **SBC-12STATE** breaches its obligation to provide CLEC with access to the TN Report contain set forth in Section 3 hereinabove, CLEC shall provide **SBC-12STATE** written notice of **SBC-12STATE's** alleged breach and give **SBC12-STATE** thirty (30) days to respond to the Notice explaining why no breach has occurred and/or attempt to cure. In the event that the Parties are unable to reach agreement with respect to the issue within thirty (30) days after **SBC-12STATE's** response or its cure, then CLEC may pursue dispute resolution under the dispute resolution procedures in this Interconnection Agreement. If the outcome of the Dispute Resolution is a finding that **SBC-12STATE** breached its obligation to provide CLEC with access to the TN Report as set forth in Section 3 hereinabove, CLEC shall be excused from its commitments in this Section 7.

8. TERM

- 8.1 **SBC-12STATE** shall make the TN Report available to CLEC the first month that follows the Effective Date of the Amendment or Agreement to which this Attachment is attached ("Effective Date") and will continue to provide the TN Report to CLEC until March 31, 2004 ("Termination Date"). Upon the Termination Date, **SBC-12STATE** may elect: (i) to discontinue providing the TN Report, at its sole discretion, upon thirty (30) days advance notice to CLEC; or (ii) to continue to provide such report to CLEC under all of the terms and conditions set forth herein but in such case, may elect to discontinue providing the TN Report, at its sole discretion, upon thirty (30) days advance notice to CLEC at any time.